

**Notice of Allowability**

Application No.

09/517,465

Applicant(s)

MAURER, MAX M.

Examiner

Dwin M Craig

Art Unit

2123

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-29-2004.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☒ The drawings filed on 6/18/2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

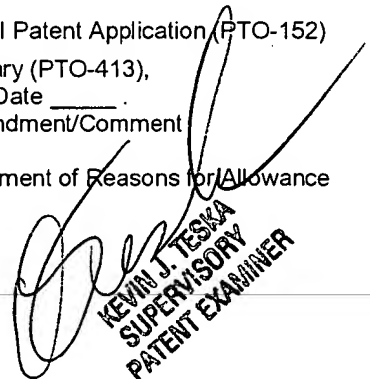
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
KEVIN J. TESKA  
SUPERVISORY  
PATENT EXAMINER

**DETAILED ACTION**

**And**

**REASONS FOR ALLOWANCE**

1. Claims 1-16 are allowed.

**Reasons for Allowance**

2. The following is an examiner's statement of reasons for allowance:

2.1 The following limitations in combination with other limitations are non-obvious improvements over the prior art. *"a simulator for inserting simulated network frames onto a physical medium...generating a least one simulated network frame from each of multiple virtual clients...a bridge device including first and second interfaces."* After a careful review of the prior art applied and Applicant's arguments submitted in the Appeal Brief dated, 10/29/2004 the Examiner asserts that the combination of limitations is neither anticipated nor made obvious by the prior art. As argued in the Applicant's appeal brief, Specifically on page 8, *"Furthermore, note that Applicant's claim 1 sets forth a "bridge device," e.g., a physical device, with interfaces for communicating with other real entities, such as a frame generator, a network and a system under test. In contrast, as mentioned, Brockel is only concerned with a simulated network with simulated components, and not with a real component such as a bridge device as claimed. This is an important distinction over the cited references since Applicant's invention provides the ability to test a real system under test such as a server, by providing realistic client/server network traffic and load (specification, page 13, lines 5-8)."* The Examiner notes that the prior art does

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not disclosed or make obvious, *an actual "bridge device"* that transfers simulated network frames, representing a plurality of virtual clients, onto a physical medium.

Further, the Applicant argued on page 11 of the Applicant's Appeal brief, *"Furthermore, note that Applicant's claim 1 sets forth a "bridge device", e.g. a physical device, with interfaces for communicating with other real entities, such as a frame generator, a network and a system under test. This is an important distinction over the cited references since Applicant's invention provides the ability to test a real system under test, such as a server, by providing realistic client/server network traffic and load (specification, page 13, lines 5-8)."* The Examiner has found these arguments in combination with Applicant's instant amendments to the claim language to over come the prior art.

An updated search has revealed the following prior art references that are related to the Applicant's claimed invention.

**U.S. Patent 6,295,557** Foss et al. discloses a frame generator for simulating network traffic from a plurality of virtual clients (**Figure 1**), however, the *Foss et al.* reference does not disclose or make obvious, the use of a bridge device and it also disclosed the simulation occurring at the TCP/IP protocol layer (**Figure 4 Item 408**) and not the Data Link layer, as claimed by Applicant's instant amendment to claim 1.

**U.S. Patent 6,041,063** Povisen et al. discloses a bridge device that simulates layer 2 MAC addresses for the purpose of providing access by a computer work station to an ATM network (**Figure 4**), however, nowhere in this reference is disclosed or suggested the limitation of inserting network frames representing a plurality of virtual clients or that the simulation is occurring at the Data Link Layer.

**U.S. Patent 6,631,137** Lorrain et al. discloses a bridge device for generating simulated MAC packets for the purpose of allowing a Token ring network to interface with a standard 802.3 10 Base T CSMA/CD Ethernet network by generating hybrid network frames with MAC bridge information as well as Layer 3 data (**Figures 2, 3 & 4**), however the simulation of multiple virtual clients is neither disclosed nor made obvious by this reference.

**2.2** Dependent **Claims 2, 3, 6, 9 and 10-16** are allowed as they depend upon allowed base claims.


**2.3** Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

**3.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M Craig whose telephone number is (571) 272-3710. The examiner can normally be reached on 10:00 - 6:00 M-F.

The Examiner's E-Mail address is: [craig.dwin@uspto.gov](mailto:craig.dwin@uspto.gov)

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on (571)272-3716.

  
KEVIN J. TESKA  
SUPERVISORY  
PATENT EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC